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OFFICE OF PETITIONS

In re Application of
Abed et al.
Application No. 10/034,817
Filed: December 27, 2001
Attorney Docket No. 34423/242418

DECISION
ON PETITION
37 CFR 1.137 (b)

This is a decision on the petition under 37 CFR 1.137(b), filed April 4, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly reply within the meaning of 37 CFR 1.113 and 1.116 to the final office action of September 28, 2004, which set an extendable period for reply of three months. While a reply and a petition and fee for a one month extension of time were filed January 28, 2005, the reply failed to *prima facie* place this application in condition for allowance.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$900.00 extension of time fee submitted with the petition on April 4, 2005 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Stephen Cronin at (571) 272-6051, or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 2671 for appropriate action on the concurrently filed Request for Continued Examination and amendment.

Karen Cready for

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy